

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, JULY 29, 2004**

UNAPPROVED
September 27, 2004

PRESENT: Walter L. Alcorn, Commissioner At-Large
Frank A. de la Fe, Hunter Mill District
Janet R. Hall, Mason District
Suzanne F. Harsel, Braddock District
James R. Hart, Commissioner At-Large
Nancy Hopkins, Dranesville District
Kenneth A. Lawrence, Providence District
Rodney L. Lusk, Lee District
Peter F. Murphy, Jr., Springfield District
Laurie Frost Wilson, Commissioner At-Large

ABSENT: John R. Byers, Mount Vernon District
Ronald W. Koch, Sully District

//

The meeting was called to order at 8:15 p.m. by Chairman Peter F. Murphy, Jr., in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway, Fairfax, Virginia 22035.

//

COMMISSION MATTERS

In Commissioner Byers' absence, Commissioner Murphy MOVED THAT THE PUBLIC HEARING ON RZ 2003-MV-060 AND FDP 2003-MV-060, D.R. HORTON, INC., BE DEFERRED TO A DATE CERTAIN OF SEPTEMBER 8, 2004.

Commissioner Harsel seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

Commissioner Alcorn announced that the Policy and Procedures Committee would meet on September 9, 2004, at 7:30 p.m., in the Board Conference Room, to discuss P District Ordinance changes. He also said a workshop with staff from the Department of Planning and Zoning on this subject had been tentatively scheduled for September 16, 2004, at 8:15 p.m.

//

Chairman Murphy announced that two Roundtable discussions would be taped in August; one on Fort Belvoir with Commissioner Byers and the other on the Redevelopment and Housing Authority with Commissioner Lusk.

//

FS-S04-51 – OMNIPOINT (T-MOBILE), 5755 REVERCOMB COURT

Commissioner Murphy MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE "FEATURE SHOWN" DETERMINATION IN FS-S04-51.

Commissioners Lusk and de la Fe seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

PCA 2002-PR-016 - WEST*GROUP PROPERTIES LLC

FDPA 2002-PR-016 - WEST*GROUP PROPERTIES LLC (Decisions Only)

(The public hearing on these applications was held on July 21, 2004. A complete verbatim transcript of the decisions made is included in the date file.)

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF PCA 2002-PR-016 AND THE CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO PROFFERS NOW DATED JULY 28, 2004.

Commissioner Lusk seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS BE WAIVED BETWEEN THE PROPOSED USES WITHIN THE DEVELOPMENT.

Commissioner Lusk seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE 600 FOOT LIMITATION ON THE LENGTH OF PRIVATE STREETS BE WAIVED.

Commissioner Lusk seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT PARAGRAPH 8 OF SECTION 16-404 BE WAIVED TO PERMIT A SIX-FOOT HIGH FENCE AROUND THE CORNER PARK.

Commissioner Lusk seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT SECTION 6-0303.8 OF THE PUBLIC FACILITIES MANUAL BE WAIVED TO PERMIT UNDERGROUND DETENTION AND BMP FACILITIES IN THE MULTI-FAMILY RESIDENTIAL DEVELOPMENT.

Commissioner Lusk seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION APPROVE FDPA 2002-PR-016.

Commissioner Lusk seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

PCA 80-P-039-08 - BEAZER HOMES CORPORATION

FDPA 80-P-039-08 - BEAZER HOMES CORPORATION (Decisions Only)

(The public hearing on these applications was held on June 24, 2004. A complete verbatim transcript of the decisions made is included in the date file.)

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 80-P-039-08 AND THE CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE CONTAINED IN ATTACHMENT 1 OF THE STAFF REPORT ADDENDUM.

Commissioner Lusk seconded the motion which carried by a vote of 7-0-2 with Commissioners Harsel and Murphy abstaining; Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION APPROVE FDPA 80-P-039-8, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS CONTAINED IN ATTACHMENT 2 OF THE STAFF REPORT ADDENDUM AND SUBJECT TO THE BOARD OF SUPERVISORS' APPROVAL OF PCA 80-P-023-08 AND THE CONCEPTUAL DEVELOPMENT PLAN.

Commissioner Lusk seconded the motion which carried by a vote of 7-0-2 with Commissioners Harsel and Murphy abstaining; Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE LOADING SPACE REQUIREMENT FROM FOUR SPACES TO PERMIT A TOTAL OF TWO LOADING SPACES.

Commissioner Lusk seconded the motion which carried by a vote of 7-0-2 with Commissioners Harsel and Murphy abstaining; Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF PARAGRAPH 5 OF SECTION 6-206 TO ALLOW DWELLINGS AS A SECONDARY USE TO EXCEED 50 PERCENT OF THE GROSS FLOOR AREA OF ALL PRINCIPAL USES TO APPROXIMATELY 75 PERCENT.

Commissioner Lusk seconded the motion which carried by a vote of 7-0-2 with Commissioners Harsel and Murphy abstaining; Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER TO PERMIT UNDERGROUND STORMWATER DETENTION IN A RESIDENTIAL DEVELOPMENT AS SHOWN ON THE CDP/FDPA, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS CONTAINED IN ATTACHMENT 3 OF THE STAFF REPORT.

Commissioner Lusk seconded the motion which carried by a vote of 6-0-3 with Commissioners Hall, Harsel, and Murphy abstaining; Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

PCA 84-L-020-22 - WAL-MART REAL ESTATE BUSINESS TRUST
PCA 84-L-020-21 - WAL-MART REAL ESTATE BUSINESS TRUST
FDPA 84-L-020-02-12 - WAL-MART REAL ESTATE BUSINESS TRUST (Decisions Only)
(The public hearing on these applications was held on June 3, 2004. A complete verbatim transcript of the decisions made is included in the date file.)

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE PCA 84-L-020-21 AND PCA 84 L-020-22, SUBJECT TO THE EXECUTION OF DRAFT PROFFERS DATED JULY 27, 2004.

Commissioner Lawrence seconded the motion which carried by a vote of 8-0-1 with Commissioner Murphy abstaining; Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS GRANT A VARIANCE PURSUANT TO THE PROVISIONS OF PARAGRAPH 8 OF SECTION 16-404 TO ALLOW A SIX-FOOT WALL ALONG KING CENTER DRIVE AS SHOWN IN THE PROFFERED PLAN.

Commissioner Lawrence seconded the motion which carried by a vote of 8-0-1 with Commissioner Murphy abstaining; Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION APPROVE FDPA 84-L-020-2-12, SUBJECT TO THE BOARD OF SUPERVISORS' APPROVAL OF THE PCAS.

Commissioner Lawrence seconded the motion which carried by a vote of 8-0-1 with Commissioner Murphy abstaining; Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

RZ 2003-HM-042 - ROBERT A. YOUNG OF TYSONS 89, LLC (Decision Only)
(The public hearing on this application was held on July 21, 2004. A complete verbatim transcript of the decision made is included in the date file.)

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT RZ 2003-HM-042 BE APPROVED, SUBJECT TO THE EXECUTION OF THE DRAFT PROFFERS DATED JULY 27, 2004.

Commissioner Hopkins seconded the motion which carried by a vote of 8-0-1 with Commissioner Murphy abstaining; Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

ORDER OF THE AGENDA

Secretary Harsel established the following order of the agenda:

1. PCA 2004-DR-023 - OAKCREST SCHOOL
SEA 00-D-006-02 - OAKCREST SCHOOL
2. RZ 2004-PR-007 - ERIC H. WYANT, JOYCE H. WYANT,
DAVID YOUNG

3. RZ 2003-MV-062 - EASTWOOD PROPERTIES, INC.
FDP 2003-MV-062 - EASTWOOD PROPERTIES, INC.

This order was accepted without objection.

//

SEA 00-D-006-02 - OAKCREST SCHOOL - Appl. under Sect. 3-104 of the Zoning Ordinance to amend SE 00-D-006 previously approved for a private school of general education and a place of worship to permit a private school of general education with temporary trailers and to delete the place of worship use. Located at 850 Balls Hill Rd. on approx. 5.46 ac. of land zoned R-1. Tax Map 21-3 ((1)) 56A. (Concurrent with PCA 2004-DR-023.)
DRANESVILLE DISTRICT.

PCA 2004-DR-023 - OAKCREST SCHOOL - Appl. to add proffers to an approximately 5.46 acre property zoned R-I. Located in the N.W. quadrant of the intersection of Georgetown Pi. and Balls Hill Rd. Comp. Plan Rec: Res. 1-2 du/ac. Tax Map 21-3 ((1)) 56A. (Concurrent with SEA 00-D-006-02.)
DRANESVILLE DISTRICT.
JOINT PUBLIC HEARING.

Keith Martin, Esquire, with Sack, Harris, & Martin, PC, reaffirmed the affidavit dated July 19, 2004. There were no disclosures by Commission members.

Cathy Lewis, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the applications.

Mr. Martin explained that Oakcrest School's enrollment had grown according to the proffers and had not reached its maximum enrollment level. He noted that the school's layout had been designed for the use of McLean Bible Church, who had recently vacated the site. Mr. Martin pointed out that the school had implemented its master plan and said that there would need to be modular classrooms added to the property during renovation. He disclosed that the school building was located 30 feet from the right-of-way line at I-495 and, therefore, would require the 75 foot setback requirement be waived.

In response to a question from Commissioner Hopkins, Mr. Martin confirmed that he agreed with the revised Development Conditions dated July 28, 2004.

There being no speakers for these applications, Chairman Murphy noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore he closed the public hearing and recognized Commissioner Hopkins for action on this case. (A verbatim excerpt is in the date file.)

//

Commissioner Hopkins MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF PCA 2004-DR-023, SUBJECT TO THE EXECUTION OF DRAFT PROFFERS CONTAINED IN APPENDIX 1 OF THE STAFF REPORT.

Commissioners Hart and de la Fe seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Hopkins MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SEA 00-D-006-02, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS NOW DATED JULY 28, 2004.

Commissioners Hart and de la Fe seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Hopkins MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT SECTION 2-414 OF THE ZONING ORDINANCE, WHICH REQUIRES A 75 FOOT SETBACK FROM AN INTERSTATE HIGHWAY RIGHT-OF-WAY, BE WAIVED IN ORDER TO PERMIT THE MODULAR CLASSROOMS TO BE LOCATED 50 FEET FROM INTERSTATE 495 AS SHOWN ON THE GDP/SEA PLAT.

Commissioner de la Fe seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

RZ 2004-PR-007 - ERIC H. WYANT, JOYCE H. WYANT, DAVID YOUNG - Appl. to rezone from R-1 to R-3 to permit residential development at a density of 2.19 dwelling units per acre (du/ac). Located on the N. and S. sides of Rainbow Rd. approx. 200 ft. W. of Woodford Rd. on approx. 39,805 sq. ft. of land. Comp. Plan Rec: 2-3 du/ac. Tax Map 39-1 ((1)) 46 and 49. PROVIDENCE DISTRICT. PUBLIC HEARING.

Keith Martin, Esquire, with Sack, Harris, & Martin, PC, reaffirmed the affidavit dated June 29, 2004. There were no disclosures by Commission members.

Cathy Belgin, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the application.

Mr. Martin stated that David Young, the owner of the application property, had been defrauded by the former owner because he had been aware that the property was a non-buildable lot that did not meet the Subdivision Ordinance Requirements when he sold it to Mr. Young. Mr. Martin explained that when Mr. Young had become aware of this situation, the statute of limitations had expired. He said now the only solution was to validate the lots, created in the 1940s and purchased in good faith, by rezoning them to R-3 which would be compatible with surrounding development. Mr. Martin said a concern about the ownership of the outlet road, Rainbow Road, had been raised and, although he believed all parcels fronting on it had rights of ingress and egress, he would work with the County Attorney's Office and abutting owners to resolve this issue.

Mr. Martin responded to questions from Commissioner Wilson regarding the ownership of Rainbow Road and the requested density. Mr. Martin also responded to a question from Commissioner Hart about the proposed orientation of Mr. Young's house. Commissioner Hart suggested that the house front on the street instead of a gravel driveway.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

Lee Miller, 1867 Beulah Road, Vienna, stated that he was the owner of parcel 48, adjacent to the Young parcel. He said his primary concern was about the ownership of Rainbow Road and if he or Mr. Young had the right to improve and maintain it and to grant utility easements. Mr. Miller also expressed concern that the proposed development could increase stormwater runoff onto his property and requested that staff reconsider its recommendation to waive stormwater drainage requirements.

Robert Hess, 8415 Rainbow Road, Vienna, owner of parcel 47, spoke in opposition to the proposed development. He expressed concerns regarding the ownership, condition, and maintenance of Rainbow Road and said that additional traffic would cause unsafe conditions. Mr. Hess presented photographs of the road, copies of which are in the date file. He pointed out that the three trees shown on the Generalized Development Plan (GDP) that the applicants were proffering to save were located on Rainbow Road and not on their property. Mr. Hess also said his house was not accurately depicted on the GDP.

There being no further speakers for this application, Chairman Murphy called for a rebuttal statement from M. Martin.

Addressing Mr. Miller's concern about stormwater runoff, Mr. Martin said that the applicant would work with the Department of Public Works and Environmental Services to determine if the grading of the lot met the requirements of the Public Facilities Manual. Mr. Martin pointed out that the reason Mr. Hess' house was not accurately depicted on the GDP was because his house was currently under construction and did not appear on the County's records yet. He agreed that the burden was on the applicants to determine ownership of Rainbow Road and said that he would confer with the County Attorney's Office on this matter.

Mr. Martin responded to questions from Commissioner Wilson regarding the footprint of the proposed structure and the original subdivision of the property.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on this case. (A verbatim excerpt is in the date file.)

//

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON RZ 2004-PR-007 TO A DATE CERTAIN OF SEPTEMBER 8, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN COMMENT.

Commissioner Lusk seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

Since Chairman Murphy was handling the following case in the absence of Commissioner Byers, he relinquished the Chair to Secretary Harsel.

//

RZ 2003-MV-062/FDP 2003-MV-062 - EASTWOOD PROPERTIES, INC. - Appls. to rezone from R-2 to PDH-2 to permit residential development at a density of 1.78 dwelling units per acre (du/ac) and approval of the conceptual and final development plans. Located on the S. side of Nalls Rd. 1000 ft. W. of Old Mount Vernon Rd. on approx. 3.40 ac. of land. Comp. Plan Rec: 2-3 du/ac. Tax Map 101-4 ((1)) 60 and 61. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Gregory Riegle, with McGuire Woods LLP, reaffirmed the affidavit dated June 29, 2004. Commissioner Hart disclosed that his law firm, Hart and Horan, PC, had one pending case with Mr. Riegle's law firm, but it would not affect his ability to participate in this case.

Lindsay Shulenberger, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the applications.

Mr. Riegle stated that the property was currently zoned R-2 and could be developed by-right. He noted, however, that the applicant would like to save the existing house, but that by-right development would necessitate demolishing it. Mr. Riegle explained that staff and the community would like to see two significant physical features of the property saved, a small stream and trees, but that under the existing R-2 zoning, they might not be protected. In summary, he said that the proposal included no increase in density, clustered development away from the stream, and preserved approximately 50 percent undisturbed open space.

Commissioner de la Fe recommended that the applicant consider constructing five foot rather than four foot sidewalks.

Secretary Harsel called for speakers from the audience and recited the rules for public testimony.

Cliff Krowne, 3810 Maryland Street, Alexandria, owner of lot 15, said when property adjacent to the application property had been developed, many trees had not been preserved which caused excessive stormwater runoff. He expressed concerns about the orientation of the houses, tree save, and density.

There were no further speakers; therefore, Secretary Harsel called upon Mr. Riegle for rebuttal remarks.

Mr. Riegle agreed with Mr. Krowne that the adjoining developments had been a debacle in terms of tree preservation, clearing, siltation, and disruption to the stream. He said that experience had led to the approach taken on this property to save as many trees as possible and to locate the houses away from the stream. Mr. Riegle assured the Commission that he would keep Mr. Krowne apprised of the plans as the development progressed.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore Secretary Harsel closed the public hearing and recognized Commissioner Murphy for action on this case. (A verbatim excerpt is in the date file.)

//

Commissioner Murphy MOVED THAT THE PLANNING COMMISSION DEFER DECISION ONLY ON RZ/FDP 2003-MV-062 TO A DATE CERTAIN OF THURSDAY, SEPTEMBER 9, 2004 WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

RZ 2003-MV-062 - EASTWOOD PROPERTIES, INC.
FDP 2003-MV-062 - EASTWOOD PROPERTIES, INC.

July 29, 2004

Commissioners Hall and Alcorn seconded the motion which carried unanimously with Commissioners Byers and Koch absent from the meeting.

//

Chairman Murphy resumed the Chair and adjourned the meeting.

//

The meeting was adjourned at 9:40 p.m.

Peter F. Murphy, Jr., Chairman

Suzanne F. Harsel, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Meeting taken by: Linda B. Rodeffer

Minutes by: Kara A. DeArrastia

Approved on:

Linda B. Rodeffer, Clerk to the
Fairfax County Planning Commission